

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PATRICK S. BUMPUS, et al.,

Plaintiffs,

v.

U.S. FINANCIAL LIFE INSURANCE  
COMPANY,

Defendant.

U.S. FINANCIAL LIFE INSURANCE  
COMPANY,

Counter-Claimant,

v.

PATRICK S. BUMPUS,

Counter-Defendant.

No. 2:20-cv-00926-DC-AC

ORDER GRANTING PLAINTIFF CYRUS  
SANCHEZ'S MOTION FOR VOLUNTARY  
DISMISSAL OF HIS CLAIMS WITHOUT  
PREJUDICE

(Doc. No. 66)

This matter is before the court on Plaintiff Cyrus Sanchez's motion pursuant to Federal Rule of Civil Procedure 41(b) for voluntary dismissal without prejudice of his claims brought in this action. (Doc. No. 66.) Pursuant to Local Rule 230(g), the pending motion was taken under submission to be decided on the papers. (Doc. No. 67.) For the reasons explained below, the court will grant Plaintiff Sanchez's motion and dismiss him from this action.

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**BACKGROUND**

On May 5, 2020, Plaintiff Patrick S. Bumpus, an insured, filed a complaint initiating this putative class action against his insurer, Defendant U.S. Financial Life Insurance Company, asserting claims for declaratory relief, breach of contract, and unfair competition based on Defendant's refusal to comply with California insurance laws regulating the lapse and termination of life insurance policies. (Doc. No. 1.) After Defendant provided to Plaintiff Bumpus a list identifying potential class members, including Cyrus Sanchez, Plaintiff Bumpus sought to add him as a named plaintiff in this lawsuit. Specifically, on January 16, 2024, Plaintiff Bumpus and Defendant filed a joint stipulation requesting the court grant Plaintiff Bumpus leave to file a first amended complaint to add Plaintiff Cyrus Sanchez, a beneficiary of the life insurance policy issued by Defendant to Plaintiff Sanchez's late husband, Bates Botting. (Doc. Nos. 60; 60-1 at 5.) The court granted the parties' joint request (Doc. No. 61), and Plaintiffs filed their operative first amended complaint on January 23, 2024. (Doc. No. 62).

Approximately five months later, on June 20, 2024, Plaintiff Sanchez filed the pending motion for voluntary dismissal of his claims pursuant to Federal Rule of Civil Procedure 41(b). (Doc. No. 66.) In his motion, Plaintiff Sanchez explains that he "learned for the first time through the course of discovery[] that the named insured [Mr. Botting] had taken steps inconsistent with maintaining the policy." (Doc. No. 66-1 at 3.) Consequently, after reviewing the discovery produced by Defendant in this litigation, Plaintiff Sanchez believes "he does not have a viable claim against Defendant" and "dragging out his lawsuit is unnecessary and would create further costs and burdens for both parties to no purpose."<sup>1</sup> (*Id.* at 5.) Plaintiff Sanchez asserts that his "decision to no longer bother this court with this matter is a logical one and his motion to voluntarily dismiss should be granted." (*Id.*)

On July 5, 2024, Defendant filed an opposition to the pending motion, although Defendant

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<sup>1</sup> In his reply brief, Plaintiff Sanchez clarifies that he learned from discovery Defendant produced in mid-May 2024, that his late husband Mr. Botting had voluntarily surrendered his life insurance policy. Whereas the claims brought by Plaintiff Bumpus and the putative class members are based on life insurance policies that lapsed due to "nonpayment of premium." (Doc. Nos. 69 at 8–9; 60-1 at 13.)

1 does not actually dispute that Plaintiff Sanchez’s claims should be dismissed. (Doc. No. 68 at 7.)  
 2 Rather, Defendant contends Plaintiff Sanchez must first be required to provide further responses  
 3 to written discovery requests and have his deposition taken by Defendant before he can be  
 4 dismissed from this action. (*Id.* at 8–14.)

5 On July 15, 2024, Plaintiff Sanchez filed a reply in support of his pending motion,  
 6 emphasizing that he already responded to Defendant’s written discovery requests, and he has no  
 7 documents and no relevant information to provide in any further response or deposition. (Doc.  
 8 No. 69 at 3–4.)

### 9 LEGAL STANDARD

10 Federal Rule of Civil Procedure 41(a)(2) provides that “an action may be dismissed at the  
 11 plaintiff’s request only by court order, on terms that the court considers proper.” Fed. R. Civ. P.  
 12 41(a)(2). District courts have discretion to dismiss a case with or without prejudice under Rule  
 13 41(a)(2). *Kamal v. Eden Creamery, LLC*, 88 F.4th 1268, 1279 (9th Cir. 2023). “Unless the order  
 14 states otherwise, a dismissal under [Rule 41(a)(2)] is without prejudice.” Fed. R. Civ. P. 41(a)(2).

15 “The purpose of [Rule 41(a)(2)] is to permit a plaintiff to dismiss an action without  
 16 prejudice so long as the defendant will not be prejudiced, or unfairly affected by dismissal.”  
 17 *Stevedoring Servs. of Am. v. Armilla Int’l B.V.*, 889 F.2d 919, 921 (9th Cir. 1989) (internal  
 18 citations omitted).

19 “A district court should grant a motion for voluntary dismissal under Rule 41(a)(2) unless  
 20 a defendant can show that it will suffer some plain legal prejudice as a result.” *Smith v. Lenches*,  
 21 263 F.3d 972, 975 (9th Cir. 2001). “‘Legal prejudice’ is a term of art: it means ‘prejudice to some  
 22 legal interest, some legal claim, some legal argument.’” *Kamal*, 88 F.4th at 1280 (quoting  
 23 *Westlands Water Dist. v. United States*, 100 F.3d 94, 97 (9th Cir. 1996)). For example, legal  
 24 prejudice includes “the loss of a federal forum, or the right to a jury trial, or a statute-of-  
 25 limitations defense.” *Westlands*, 100 F.3d at 97. But “[u]ncertainty because a dispute remains  
 26 unresolved is not legal prejudice,” and “the threat of future litigation which causes uncertainty is  
 27 insufficient to establish plain legal prejudice.” *Id.* at 96–97.

28 In evaluating a plaintiff’s request for voluntary dismissal, courts determine “(1) whether to

allow dismissal; (2) whether the dismissal should be with or without prejudice; and (3) what terms and conditions, if any, should be imposed.” *Williams v. Peralta Cmty. Coll. Dist.*, 227 F.R.D. 538, 539 (N.D. Cal. 2005). “A court may, but need not, condition a Rule 41(a)(2) dismissal on a plaintiff’s deposition or production of discovery.” *Sherman v. Yahoo! Inc.*, No. 13-cv-0041-GPC-WVG, 2015 WL 473270, at \*7 (S.D. Cal. Feb. 5, 2015) (citing *Roberts v. Electrolux Home Prods., Inc.*, No. 12-cv-1644 CAS, 2013 WL 4239050, at \*3 (C.D. Cal. Aug. 14, 2013) (denying the defendant’s request to condition the named plaintiffs’ withdrawal on requiring them to sit for a deposition by the defendant)); *see Westlands*, 100 F.3d at 97 (“In this circuit, we have stated that a district court properly identified legal prejudice when the dismissal of a party would have rendered the remaining parties unable to conduct sufficient discovery to untangle complex fraud claims and adequately defend themselves against charges of fraud.”).

## DISCUSSION

As noted above, Plaintiff Sanchez and Defendant agree that Plaintiff Sanchez’s claims should be dismissed. Given that all parties agree that Plaintiff Sanchez’s claims are not viable, dismissal of Plaintiff Sanchez is indeed appropriate. Further, Defendant does not challenge dismissal of Plaintiff Sanchez *without prejudice*, as the parties agree that Plaintiff Sanchez is not a member of the putative class Plaintiff Bumpus seeks to represent in this case. (Doc. Nos. 68 at 2; 69 at 4.) Thus, the only remaining question is what conditions, if any, should be imposed on Plaintiff Sanchez’s voluntary dismissal.

In opposing the pending motion, Defendant urges the court to condition Plaintiff Sanchez’s dismissal on him providing further responses to written discovery and sitting for a deposition. (Doc. No. 68.) However, as Plaintiff Sanchez emphasizes in his reply, Defendant did not file a motion to compel Plaintiff Sanchez to provide further responses to Defendant’s written discovery requests, despite being dissatisfied. (Doc. No. 69 at 6.) Notably, Defendant served interrogatories and requests for production of documents on Plaintiff Sanchez on March 14, 2024, and he served his responses thereto on May 20, 2024. (Doc. No. 68-1 at 2.) As reflected in the email correspondence between Plaintiffs’ counsel and defense counsel, which are attached as exhibits to Defendant’s opposition, Plaintiffs’ counsel was also reviewing Defendant’s discovery

1 responses and production of documents in May 2024. (Doc. No. 68-1 at 103–106.) On May 28,  
2 2024, Plaintiffs’ counsel followed up in an email asking Defendant to produce the audio files or  
3 other communications from Mr. Botting that Defendant contends show Mr. Botting did not wish  
4 to maintain the policy and had affirmatively surrendered the policy. (Doc. No. 68-1 at 106.)  
5 Shortly thereafter, on June 3, 2024, Plaintiffs’ counsel emailed Defendant’s counsel stating “[i]n  
6 light of the documents produced by defendant in which Mr. Botting requested surrender of his  
7 policy, Plaintiff Sanchez will be dismissing his claims. I am reaching out to request that  
8 Defendant stipulate to dismissal.” (Doc. No. 68-1 at 104.) Defendant’s counsel responded on June  
9 10, 2024, stating they do not consent to the dismissal of Plaintiff Sanchez. (Doc. No. 68-1 at 103.)  
10 A few days earlier, on June 7, 2024, Defendant’s counsel had sent a letter to Plaintiffs’ counsel  
11 outlining perceived deficiencies in Plaintiff Sanchez’s discovery responses and requesting they  
12 hold a meet and confer via videoconference within the next fourteen days. (Doc. No. 68-1 at 86.)  
13 Despite knowing of Plaintiff Sanchez’s intentions at that time, that letter did not mention his  
14 intent to voluntarily dismiss his claims. Ultimately, no further meet and confer occurred because  
15 Plaintiff Sanchez filed the pending motion for voluntary dismissal of his claims on June 20, 2024.  
16 (Doc. No. 66.)

17       Having considered the parties’ respective arguments, the court finds that imposing  
18 discovery related conditions on Plaintiff Sanchez’s dismissal is not appropriate under the  
19 circumstances of this case, which are distinguishable from the decisions cited by Defendant.  
20 Importantly, it was Defendant who identified Plaintiff Sanchez as a possible class member (which  
21 turned out to be inaccurate), and he was added as a named plaintiff nearly four years after  
22 Plaintiff Bumpus filed the original complaint. Indeed, Plaintiff Bumpus remains in this case, and  
23 Defendant has already deposed Plaintiff Bumpus and his wife. (*See* Doc. No. 69 at 8.) In contrast,  
24 the plaintiff seeking voluntary dismissal in *Sherman v. Yahoo! Inc.*, No. 13-cv-0041-GPC-WVG,  
25 2015 WL 473270, \*7 (S.D. Cal. Feb. 5, 2015), a case cited by Defendant, was the sole named  
26 plaintiff for nearly two years and did not move to dismiss his claims until after his deposition had  
27 been noticed and rescheduled several times. Moreover, in those parties’ stipulation permitting  
28 him to add a second named plaintiff, plaintiff had agreed to sit for his deposition within the next

1 two months, which he did not do. *Id.* at \*1. Rather, he sought voluntary dismissal less than two  
2 months after the second named plaintiff was added to case. *Id.* at \*1–2. Under those  
3 circumstances, the court in *Sherman* reasoned that conditioning the plaintiff’s dismissal on him  
4 sitting for a deposition was warranted because the defendant had already expended resources  
5 conducting discovery specific to him, given that he had been the sole plaintiff and his testimony  
6 remained relevant to class certification issues. *Id.* at \*7. Unlike the extensive discovery and  
7 deposition preparation undertaken by the defendant in *Sherman*, here it appears Defendant has not  
8 already expended time and resources preparing for Plaintiff Sanchez’s deposition. Notably, in  
9 mid-May 2024, Defendant asked to set Plaintiff Sanchez’s deposition for June 17, 2024, but then  
10 asked to postpone the deposition to July 2024, suggesting Defendant did not expend significant  
11 time preparing for the deposition of Plaintiff Sanchez—who had only been a named plaintiff at  
12 that point for approximately four months. (*See* Doc. No. 68-1 at 105.) Furthermore, unlike the  
13 plaintiff in *Sherman* who no longer wished to participate in the litigation but who still had direct  
14 experiences with the defendant that were relevant to the putative class claims and class  
15 certification, here both parties agree that Plaintiff Sanchez has no viable claims, he did not  
16 experience any lapsing of a life insurance policy, and he was mistakenly identified as a putative  
17 class member. Thus, the court is not persuaded that Plaintiff Sanchez has information relevant to  
18 the claims at issue in this case such that conditioning his voluntary dismissal on providing further  
19 discovery responses and sitting for a deposition is warranted.

20 For similar reasons, Plaintiff Sanchez is also distinguishable from the plaintiff in *Fraley v.*  
21 *Facebook Inc.*, No. 11-cv-1726-LHK-PSG, 2012 WL 555071 (N.D. Cal. Feb. 21, 2012), another  
22 case cited by Defendant. There, the plaintiff was an original named plaintiff whose allegations  
23 had been directly referenced in prior court orders, whose claims remained viable, and who sought  
24 to remain a class member but be dismissed as a class representative specifically to avoid a  
25 deposition. 2012 WL 555071, at \*1–2. Indeed, the plaintiff in *Fraley* filed a motion for a  
26 protective order to prevent the defendant from deposing her because she feared her deposition  
27 testimony regarding her “likes” on Facebook would be made public in a class certification  
28 motion, which would be embarrassing and expose her political views and lifestyle choices. *Id.* at

1 \*1. The court denied the plaintiff's motion for a protective order because her privacy interests did  
2 "not outweigh the relevance or propriety of Facebook proceeding to take [her] deposition." *Id.* at  
3 \*3. Thus, the reasoning by the court in *Fraley* does not apply to Plaintiff Sanchez's motion for  
4 voluntary dismissal.

5 Defendant's reliance on the decision in *Opperman v. Path, Inc.*, No. 13-cv-00453-JST,  
6 2015 WL 9311888, at \*1–2 (N.D. Cal. Dec. 22, 2015) is likewise unavailing because there the  
7 plaintiff sought to be dismissed as a class representative but remain a class member because her  
8 work demands increased and she had "little available time to devote to the lawsuit or serve as a  
9 class representative." Because that plaintiff had not substantively responded to written discovery  
10 propounded by the defendant before she sought dismissal, and because those responses remained  
11 relevant to the claims in the case, the court in *Opperman* conditioned her dismissal on providing  
12 further responses to written discovery. 2015 WL 9311888, at \*3.

13 Moreover, courts do not uniformly require plaintiffs seeking dismissal to provide further  
14 discovery responses or sit for a deposition as a condition of their dismissal, even when they have  
15 relevant information and would remain a class member. *See Roberts v. Electrolux Home Prods.,*  
16 *Inc.*, No. 12-cv-1644-CAS, 2013 WL 4239050, at \*2 (C.D. Cal. Aug. 14, 2013) (declining to  
17 impose a deposition condition where two named plaintiffs sought dismissal due to "health and  
18 family concerns" and filed their motion for voluntary dismissal before the filing of a class  
19 certification motion, because the defendant had not shown that it expended significant time and  
20 energy preparing for those depositions); *see also In re Univ. of S. Cal. Tuition & Fees COVID-19*  
21 *Refund Litig.*, No. 20-cv-4066-DMG-PVC, 2022 WL 3012818, at \*3 (C.D. Cal. May 4, 2022)  
22 (granting voluntary dismissal without conditions of the named plaintiffs who no longer wished to  
23 be class representatives, even though the defendants noticed their depositions the day before they  
24 sought dismissal, because the defendants had not yet expended substantial efforts in deposition  
25 preparation).

26 In sum, the court finds that dismissal of Plaintiff Sanchez from this action without  
27 prejudice is proper, and given the circumstances in this case, conditioning the dismissal of  
28 Plaintiff Sanchez by requiring him to first provide further responses to discovery or sit for a

deposition is not warranted.


**CONCLUSION**

For the reasons explained above,

1. Plaintiff Cyrus Sanchez's motion for voluntary dismissal of his claims brought in this action, without prejudice, (Doc. No. 66) is GRANTED;
2. Plaintiff Cyrus Sanchez is DISMISSED from this action; and
3. The Clerk of the Court is directed to update the docket to reflect that Plaintiff Cyrus Sanchez has been terminated from this action.

IT IS SO ORDERED.

Dated: May 27, 2025

  
Dena Coggins  
United States District Judge